

Appl. No. 10/003,900
Atty. Docket No. 8762
Amdt. dated November 4, 2003
Reply to Office Action of August 4, 2003
Customer No. 27752

REMARKS

Claims 1, 16, and 20 have been amended to claim a storage wrap material comprising a sheet material having a thickness ranging from about 0.0001 inches to about 0.001 inches. Support for the instant Amendments to Claims 1, 16, and 20 is found on page 18, lines 2-6, of the Specification, as originally filed. No new matter has been added. Claims 1-20 remain in this Application and are presented for the Examiner's review in light of the above Amendments and the following remarks.

Rejections Under 35 U.S.C. §103

Claims 1-20 have been rejected under 35 U.S.C. §103(a) over McGuire, et al., U.S. Patent No. 5,965,235. Applicants respectfully traverse this rejection.

In the attached Declaration under 37 C.F.R. 1.132, the Declarant, Andrew Julian Wnuk, declares that, "the instant Application is distinguishable from McGuire because the bending resistance of the substrate becomes the limiting factor in the adherence of a food storage wrap to rough or irregular surfaces when thin adhesive layers are used. The instant Application has found that storage wrap materials having adhesive layers thinner than those specified in McGuire can be produced by applying a thin layer of adhesive (0.00001 inch to 0.0002 inch) to a film substrate having a thickness ranging from 0.0001 inch to 0.001 inch." Applicants respectfully believe Dr. Wnuk's Declaration speaks for itself. Therefore, the McGuire reference fails to disclose, teach, suggest, or render obvious every recited feature of Applicants' independent Claims 1, 16, and 20. Thus, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §103(a) rejection with respect to Applicants' Claim 1, 16, and 20.

Because Claims 2-15 and 17-19 all depend directly or indirectly from Applicants' independent Claims 1 or 16, they contain all of their respective limitations. For this reason, Applicants submit that the arguments made above concerning the allowability of Claims 1 and 16 are equally applicable to the rejection of Claims 2-15 and 17-19 under U.S.C. §103(a). Applicants therefore request reconsideration and withdrawal of the Examiner's U.S.C. §103(a) rejection to Claims 2-15 and 17-19.

Double Patenting

Claims 1-20 were rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-24 of U.S. Patent No. 6,194,062. Applicants respectfully traverse this rejection.

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M.P.E.P. §804 states that the obvious-type double patenting rejection must be based upon the obviousness standard of 35 U.S.C. §103(a). *See In re Braat*, 937 F.2d 589 (Fed.Cir. 1991). The differences between the inventions defined by the conflicting claims and the reasons why a person of ordinary skill in the art must conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in the claim in the [reference]. If the Application at issue is the later filed application, only a one-way determination of obviousness is needed in resolving the issue of double patenting; i.e., whether the invention defined in a claim of the application is an obvious variation of the invention defined in a claim in the parent. *See In re Berg*, 46 U.S.P.Q.2d 1226 (Fed.Cir. 1998); M.P.E.P. §804(II)(B)(1)(a). Here, the two-way test is inapplicable, as Applicants could not have filed the claims in a single application and there was no administrative delay. *See id.*; M.P.E.P. §804(II)(B)(1)(b).

Independent Claims 1 and 24 of U.S. Patent No. 6,194,062 claim an improved storage wrap material comprising "a sheet of non-porous material having a first side and a second side, said first side comprising an active side . . . wherein a compressive force of at least about 0.1 psi is required to activate said active side" (Emphasis Added) The instant Application does not claim a storage wrap requiring a compressive force of at least about 0.1 psi to activate the material. In fact, the instant Application claims, *inter alia*, a storage wrap material comprising a sheet material having a thickness ranging from about 0.0001 inches to about 0.001 inches. In particular, the storage wrap material has an adhesive composition ranging from about 0.00001 inches to about 0.0002 inches in thickness disposed upon the sheet material. Therefore, the claims of the instant Application are not, and cannot be, obvious variants of the reference patent and fail the one-way obviousness determination. Applicants request the Examiner to withdraw the provisional obviousness-type double patenting rejection of Claims 1-20 over Claims 1-24 of U.S. Patent No. 6,194,062.

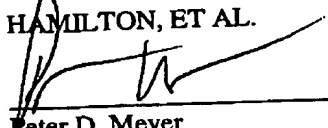
Conclusion

Based on the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

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This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512, and no fee is believed due. However, if any additional charges are due, the Examiner is hereby authorized to deduct such charge from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,
HAMILTON, ET AL.



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